

APPENDIX H

Funding Allocation Method

I. INTRODUCTION

The Department can allocate Section 180(c) funds according to a formula, based upon jurisdictions' needs assessments, or a combination approach. The challenge is to balance the competing interests of recipient need, risk, equity, and program efficiency.

II. BACKGROUND

The *1998 Revised Proposed Policy and Procedures* intended to allocate funds based on an applicant's assessment of their training and technical assistance needs. The scope of the assessment was limited to ensure the applicant considered only those needs related to the increment of need caused by NWSA shipments. The *Draft Policy* proposed a one-time planning grant of \$150,000, to be distributed four years prior to the commencement of shipments. States would then have received annual grants including a base grant of \$75,500, and a variable grant to be determined by a needs assessment. Most commenters to this Notice viewed the needs-based approach as an improvement over formula-based approaches, although no specific formulae were proposed for comparison.

The Waste Isolation Pilot Plant (WIPP) Transportation Safety Program funds states' preparedness activities through the SRGs, based on projects and activities proposed by the states and approved by DOE. Shipment numbers, route miles, and population are not directly factored into the calculation of funding levels, although one state said they use these factors for their own assessment of needs when proposing funding levels to DOE.

The Consolidated Grant, although never implemented, proposed an impact-based formula based on (a) number of shipments, (b) mileage through a jurisdiction, and (c) population along a route. A small amount of discretionary funding, based on need, would have been available. Tribes were to have been consulted on their individual preferences for how to receive funding.

The Topic Group also considered grant programs operated by the Department of Homeland Security (DHS). Since 2002, DHS grant funds have primarily been distributed based on funding formulas. For example, for statewide grants, DHS distributes 40 percent of available funding evenly among all states, with the remainder distributed according to state population. Recent proposals in Congress may alter this approach so that funding would be more directly tied to the likelihood of terrorist attacks and their potential consequences. In addition, DHS's focus is changing over time to a "results-based" approach to ensure accountability and effectiveness.¹

¹ Government Accountability Office, 2005, *Management of First Responder Grant Programs and Efforts to Improve Accountability Continue to Evolve*, GAO-05-530T, pp 6.

III. OPTIONS CONSIDERED

Option 1: Western Governors' Proposal

The Western Governors' Association passed a resolution in 1999, endorsed by the Governors of 12 states and reaffirmed in 2002, describing the Western Governors' expectations for a comprehensive Spent Nuclear Fuel/High Level Waste transportation system. That Resolution called for DOE to "Provide annual implementation grants to states and tribes with 75 percent of the grant funds allocated according to the number of projected shipment miles in the jurisdiction and 25 percent of the funds allocated...to ensure minimum funding levels and program capabilities among impacted states and tribes." This resolution was re-adopted at the Western Governors' June 2005 meeting after having been revised as noted below.

The current version of the Western Governors' resolution does not recommend a specific funding formula and states that "Because of the current uncertainties in the transportation system (e.g., routing, mode, intermodal transfers, schedules, security measures), it is premature for DOE to finalize 180(c) and other funding allocations for annual implementation grants. Once states and tribes have assessed their needs through planning grants provided by DOE, DOE should then consult with states and tribes to determine how to best allocate funds to states and tribes effectively, efficiently and equitably."

This approach recognizes that reliance only on funding formulas does not ensure that all appropriate emergency preparedness needs will be funded. For example, a state may have too few shipment miles to build necessary capabilities, or its existing response system may require more assistance to reach minimum acceptable levels.

The approach contained in the revised Western states' policy resolution is closely related to that contemplated by DOE's 1998 Draft Policy. It places emphasis on assessing actual needs within individual states and providing funding levels commensurate with those needs. The revised approach has the advantage of providing individual states, DOE and Congress with information on the actual needs and costs of an adequate Sec. 180(c) program (for each state individually and the nation collectively). By linking funding levels directly to identified needs, this approach provides a more solid basis for justifying appropriations requests to Congress.

This approach also requires a determination of "minimum elements necessary to ensure safe routine transportation and for procedures dealing with emergency response situations." (WIEB and NWTRB have both recommended that DOE establish these minimum elements.) While OSHA and EPA regulations make it an employer's responsibility to certify an employee's training level, they do not prohibit government agencies from establishing training guidelines. DHS is currently in the process of

establishing minimum training standards for emergency response personnel, as part of the National Incident Management System. However, it may be some time before those standards are developed and released. Therefore, the Western states are committed to working with DOE to develop a list of minimum elements that are acceptable to DOE, the states, and other stakeholders.

The Western states support the idea of DOE providing affected states and tribes with planning grants of \$200,000.

Option 2: HMEP-Based Proposal

The State Regional Groups in the Midwest, Northeast, and South support an approach that is based on the DOT's Hazardous Materials Emergency Preparedness (HMEP) grants program. The approach involves two steps:

1. DOE would determine the states' eligibility levels using a risk-based formula. Like the HMEP formula, the regions' proposed formula would use factors that reflect the likely impact of shipments on the states and, therefore, the states' likely training-related needs.
2. DOE would determine the actual award levels based on demonstrated needs as documented in the states' grant applications. States could apply for less than the full amount for which they are eligible. Likewise, DOE could grant a smaller award to a state if the state's application did not justify spending the full eligibility amount.

The three regions propose that DOE retain the planning grants and base grants described in the *1998 Draft Policy*, adjusting them upwards to \$200,000 and \$100,000, respectively. Under the *1998 Draft Policy*, the planning grant is a "one-time" grant to be distributed four years prior to the commencement of shipments. The base grant would be available every year after the year in which the states receive the planning grant.

The variable grants would be based on a formula like the HMEP formula. The regions propose the following formula for the variable grants:

- + 0.3 (Percentage of Population along Route Corridors)
- + 0.3 (Percentage of Route Miles)
- + 0.3 (Percentage of Number of Shipments)
- + 0.1 (Percentage of Shipping Sites)

All factors would be specific to the shipping year, not the life of the program. The population figure, calculated from U.S. Census Bureau data, would capture either the

number of responders requiring training or the number of jurisdictions requiring training. Total route miles (for all modes) would act as a surrogate for the accident risk. The number of shipments addresses the additional burden placed on the states that are heavily impacted by shipments. Lastly, the number of shipping sites (including storage facilities) would factor in the additional training burden placed on states that must prepare for point-of-origin inspections of both the package and the vehicle. Shipping sites would include power plants, DOE sites, and any other entity shipping spent fuel or high-level radioactive waste to Yucca Mountain.

The Midwest, the Northeast, and the South support the HMEP-based approach because it is modeled after an existing federal program with similar goals as the 180(c) program. DOT has been successfully administering the HMEP program for 13 years. The original risk-based factors have remained the same over that time, despite the fact that the states have an opportunity to suggest changes to the allocation formula. These regions also feel strongly that using a risk-based formula to determine eligibility levels not only links the funding to projected needs, but it greatly simplifies the administrative process.

IV. RECOMMENDATION

The Topic Group recommends that DOE provide a one-time planning grant of \$200,000 per corridor state.

For the annual training grants, the Topic Group as a whole is unable to reach a consensus at this time on which option to recommend to management.

- The Midwestern, Northeastern, and Southern states recommend that DOE adopt the HMEP-based proposal (option 2).
- The Western states believe that it is premature to select a specific funding method, as DOE has yet to make a number of important decisions which will significantly impact training needs. Once DOE has specified the transportation system in sufficient detail to allow states to evaluate impacts within their borders, individual state needs assessments can be done to arrive at costs for meeting unmet needs. States' costs can then be aggregated to identify the approximate overall cost nationally. Only at that point will it be possible to determine what, if any, formula will adequately meet states' needs, or if a direct needs-based approach similar to the Western Governors' proposal (option 1) will be required.